

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2009-327-E - ORDER NO. 2009-724  
OCTOBER 16, 2009

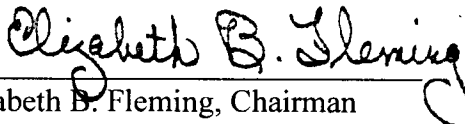
IN RE: Michelle and James Smith,	)	ORDER GRANTING
Complainants/Petitioners,	)	MOTION TO DISMISS
	)	
vs.	)	
	)	
South Carolina Electric & Gas Company,	)	
Defendant/Respondent.	)	

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the motion of South Carolina Electric & Gas Company (“SCE&G”) to dismiss the Complaint. In their complaint, Michelle and James Smith (“the Smiths”) complain of diminution of property value and loss of enjoyment of their property due to SCE&G’s construction of a 2.4 mile long, 115 kilovolt (“kV”) transmission line along Gibbet Road in Beaufort County. The Smiths state that they would like utility companies to be required by law to post signs indicating where they intend to run power lines so that potential homebuyers would be made aware of such construction. They also seek an order from this Commission requiring SCE&G to bury its transmission lines currently running along Gibbet Road in Beaufort County. Alternatively, the Smiths seek to have the lines moved from the area in which they reside to an area with less residential development. Because the Commission lacks the statutory authority to issue the relief requested by the Smiths, we hereby grant SCE&G’s motion to dismiss.


The Smiths' complaint is entirely based upon the premise that SCE&G is required by law to seek Commission approval to construct a 115kV transmission line. Because the underlying premise upon which the Smiths base their complaint is not accurate, the complaint fails to state a cause of action for which we are authorized to grant relief. Section 58-33-110(1) of the South Carolina Code requires a utility to obtain Commission approval, in the form of a Certificate of Public Convenience and Necessity, prior to the construction of a "major utility facility." Section 58-33-20(2)(b) defines "major utility facility" to include electric transmission lines with designed operating voltage of 125kV or more. Because it is undisputed that the designed operating voltage of the transmission line at issue is less than 125kV, SCE&G was not required to seek Commission approval prior to constructing the line. Therefore, due to the fact that the complained-of line is outside the purview of the Commission's regulatory authority, we must dismiss the complaint. Accordingly, we do not address any of the other issues raised by the Smiths in their complaint.

This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

  
Elizabeth B. Fleming, Chairman

ATTEST:

  
John E. Howard, Vice Chairman

(SEAL)